IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5987 OF 2004

Chandrashekhar Dagdu Bansode ...Petitioner

Versus

Mrs.Nanda Chandrashekhar Bansode ...Respondent

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Mr. A.S. Khandeparkar, counsel for Petitioner

Mr. N.D. Kamble, counsel for Respondent.

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CORAM: B. H. MARLAPALLE, J.

DATED: 14TH MARCH, 2005

P. C.:-

1. Heard Mr. Khandeparkar, the learned counsel for the petitioner-husband and Mr Kamble the learned counsel for the respondent-wife.

2. The husband has filed the petition for divorce bearing No.309 of 2002 before the District Court at Kalyan U/Section 13(i)(a) of the Hindu Marriage Act, 1955 and in the said petition the wife moved an application for interim maintenance which was registered as application at Exh.11 and has been partly allowed by the impugned order dated 16.4.2004 passed by the learned Civil Judge, Senior Judge, at Kalyan.

3. Mr. Khandeparkar, the learned counsel for the petitioner submitted that the wife is already in receipt of an amount of Rs.450/- per month by way of maintenance U/sec. 125 of Cr.P.C. and further an amount of Rs.1000/- per month would be grossly disproportionate to the known income of the petitioner as came before the court below. It was further submitted that the wife's house is on the walking distance of two minutes from the court premises and there was no justification in directing to pay Rs.100/- by way of costs to attend the hearing fixed by the Court each time.

4. The trial Court has noted that the petitioner's father runs the photo studio which is managed by the petitioner himself and the tax statement signed by the Chartered Accountant for the years 2002-2003 and 2003-2004 were not found to be realistic. The trial Court concluded that the husband was concealing his real income. By taking into consideration the attending circumstances, the trial court came to the conclusion that the amount of Rs.1,000/- per month would be appropriate to grant by way of interim maintenance to wife from the date of filing the petition.

5. The reasoning given by the trial Court in fixing the interim maintenance amount does not call for any

interference, however, there is no justification in directing to pay Rs.100/- on each date of hearing to the wife. This part of the order has to be set aside.

6. Hence the petition is rejected by confirming the amount of Rs.1000/- per month by way of interim maintenance and the order to Rs.100/- on each date of hearing shall stands vacated.

7. Petition is disposed of accordingly.

8. The trial of the divorce petition No. 309 of 2002 is hereby expedited and the same may be decided preferably within a period of six months subject to the petitioner depositing the arrears amount within two weeks from today with the trial Court. The petitioner undertakes to pay the maintenance amount every month regularly before the 7th of subsequent month.